HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO.6019 OF 1995

Between:

A.Narasimha Rao

. . .Petitioner

AND

Secretary, A.P.State Electricity Board,
Vidyut Soudha, Hyderabad and others

. . .Respondents

Counsel for the petitioner :Shri B.Anjaneyulu
for Shri P.Innayya Reddy

Counsel for the respondents : Ms. Saraswathi
for Shri Samineni Kishore

Dated: 5th September, 2006

: ORDER :

Whether the benefit of pension scheme introduced in the services of Andhra Pradesh State Electricity Board (for short 'the Board') with effect from 01.04.1982 can be claimed by an employee who had retired prior to that date is the only question which arises for determination in this petition filed by
Shri A.Narasimha Rao under Article 226 of the Constitution of India.

The petitioner joined the service of the Board as Lineman in 1954. He was promoted as Load Surveyor in June, 1955 and as Surveyor in March, 1962. In December, 1962, he was reverted to the position of Load Surveyor because he did not possess the qualification prescribed for the post of Surveyor. He retired from the service of the Board on 10-7-1979 on attaining the age of superannuation. After one year and two months of his retirement, the Board adopted the Andhra Pradesh Revised Pension Rules, 1980 in Proceedings BPMs.No.766, dated 12-9-1980. The post of Load Surveyor was made pensionable with effect from 1-4-1982 and brought under the pension scheme. After about twelve years of his retirement, the petitioner sent legal notice to Superintending Engineer (Operation Circle), Nellore for grant of pension, but his claim was rejected by the officer concerned on the ground that the pension scheme was made applicable with effect from 1-4-1982, whereas he had retired on 10-7-1979. This was communicated to the petitioner's Advocate vide letter dated 27-4-1991. After another four years, the petitioner filed this petition.

Shri B.Anjaneyulu, learned counsel appearing for the petitioner requests that he may be granted time to file an application for bringing

on record the legal representatives of his client, who died during the pendency of the writ petition. Ordinarily, I would have accepted the request of the learned counsel and adjourned the case, but having regard to the nature of the prayer made in the writ petition and law laid down by the Supreme Court, which is against the petitioner, I do not consider it proper to adjourn the case and unnecessarily burden the legal representatives of the deceased with additional costs and expenses.

In **D.S.Nakara v. Union of India**[1], the Constitution Bench of the Supreme Court entertained and accepted the plea of discrimination raised by the employees, who had retired before introduction of the pension scheme. The Constitution Bench ruled that the entire group of retired employees constitutes as one class and the employer cannot discriminate among them for fixing a

cut-off date for the applicability of pension scheme. That judgment has been considered and distinguished in **Krishena Kumar v. Union of India**[2], **Indian Ex-Services League v. Union of India**[3], **All India Reserve Bank Retired Officers' Association v. Union of India**[4], **State of Rajasthan v. Amrit Lal Gandhi**[5], **State of Punjab v. Boota Singh**[6], **Tamil Nadu Electricity Board v. R.Veerasamy**[7], **Union of India v. P.N.Menon**[8] and **Hari Chand v. Faridabad Complex Administration**[9].

In **Hari Chand's** case (supra), the Supreme Court distinguished **D.S.Nakara's** case (supra) and held that the employer is not bound to apply new pension scheme to the retired employees.

In **State of Punjab v. Amar Nath Goyal**[10], the Surpeme Court considered a somewhat similar issue and held:

"It is difficult to accede to the argument that a decision of the

> Central Government/State Governments to limit the benefits only to employees, who retire or die on or after
> 1-4-1995, after calculating the financial implications thereon, was either irrational or arbitrary. Financial and economic implications are very relevant and germane for any policy decision touching the administration of the Government, at the Centre or at the State level. In the present case, the cut-off date has been fixed as 1-4-1995 on a very valid ground, namely, that of financial constraints. Consequently, the contention that fixing of the cut-off date was arbitrary, irrational or had no rational basis or that it offends Article 14, is liable to be rejected."

In view of the consistent view taken in the aforementioned cases, I have no hesitation to negative the petitioner's claim for grant of pension under the Andhra Pradesh Revised Pension Rules, 1980, as applicable to the services of the Board.

In the result, the writ petition is dismissed. While dismissing the writ petition, I deem it proper to take cognizance of the statement made by Ms.Saraswathi, learned counsel for the Board that at the time of his retirement, late A.Narasimha Rao had been paid retiral dues like provident fund, gratuity, insurance etc.

G.S.SINGHVI, CJ

Date: 05.09.2006

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[1] AIR 1980 SC 130

[2] (1990) 4 SCC 207

[3] (1991) 2 SCC 104

[4] 1992 Suppl. (1) SCC 664

[5] (1997) 2 SCC 342

[6] (2000) 3 SCC 733

[7] (1999) 3 SCC 414

[8] (1994) 4 SCC 68

[9] (2005) 4 SCC 592

[10] (2005) 6 SCC 754